

PLANNING BOARD
Meeting Minutes
May 6, 2014
Town Hall, 120 Main Street
7:00 PM

1 Present: R. Rowen, L. Rudnicki, L. McSherry, J. Simons, D. Kellogg, M. Colantoni

2 Absent:

3 Staff Present: C. Bellavance, J. Enright

4
5 Meeting began at 7:00 pm.

6
7 **BOND RELEASE**

8 Hitching Post Road: Request for a partial release in the amount of \$45,400 of performance G
9 bond.

10 D. Kellogg recused himself.

11 C. Bellavance: Met with Carol McGravey, Town Counsel, and Tim Willet, DPW, to discuss the
12 sewer line. T. Willet does not feel the sewer injector pump design was best situation for the
13 town; however, there are others like this throughout the town. This method was used because
14 they were unable to gain easements and access though wetlands to install a gravity fed sewer
15 system. They recommended a release of all of the bond and interest except for \$12,000. This
16 amount will be held for final documents and to ensure a street layout plan for street acceptance.
17 Any problems that exist are on the homeowner's property and not in the public way.

18 **MOTION**

19 A motion was made by R. Rowen to release all bond money for Hitching Post Road except the
20 \$12,000 required to bring the road to Town Meeting for street acceptance. The motion was
21 seconded by L. McSherry. The vote was unanimous, 5-0 in favor. D. Kellogg abstained.

22
23 Walgreens, 800 Turnpike Street: Request for release of a \$10,000 performance G bond.

24 C. Bellavance: Mark Investment Group permitted the project and they sold the property after
25 completion of construction and the issuance of the Certificate of Occupancy. A site visit was
26 conducted. The landscaping is in good shape overall and matches what is on the original
27 Landscape Plan. There are a few shrubs missing and mulch is needed. Suggested that a letter
28 could be sent to Walgreens stating the requirement to meet the conditions of their special permit
29 and requesting some additional planting and a site cleanup.

30 **MOTION**

31 A motion was made by R. Rowen to release the full performance bond of \$10,000 plus interest
32 for Walgreens. The motion was seconded by D. Kellogg. The vote was unanimous, 6-0.

33
34 **PUBLIC HEARINGS**

35 CONTINUED PUBLIC HEARING; 316 Great Pond Road: Application for Watershed Special
36 Permit: Applicant seeks to construct an inground pool, patio, shed, fence, and landscaping
37 within the 100 foot Non-Disturbance Zone of the Watershed Protection District.

38 C. Bellavance: There were three questions asked at the last meeting that required follow-up with
39 L. Eggleston. Reviewed L. Eggleston's response to the questions.

40 Jack Sullivan, Engineer: There was a concern raised by a Board member about a gunite pool vs.
41 a vinyl liner pool. L. Eggleston did not have a decision one way or the other on the material to
42 use for the pool.

43 **MOTION**

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A motion was made by D. Kellogg to close the public hearing for 316 Great Pond Road. The motion was seconded by R. Rowen. The vote was unanimous, 6-0.

A draft Decision was reviewed.

MOTION

A motion was made by D. Kellogg to approve the Watershed Special Permit for 316 Great Pond Road as amended. The motion was seconded by R. Rowen. The vote was unanimous, 6-0.

CONTINUED PUBLIC HEARING: Annual Town Meeting Zoning Articles.

Planning Board Report –April 15, 2014

The Planning Board makes the recommendations regarding the following Town Meeting warrant articles as required by M.G.L. c.40A, Section 5 and Chapter 2, Section 9 of the Town Code:

Article 33: Amend Zoning Bylaw – Section 18: Downtown Overlay District. To see if the Town will vote to amend the Town of North Andover Zoning Bylaw, Section 18 – Downtown Overlay District, in the following manner, or to take any other action relative thereto.
Section 18 Downtown Overlay District

Section 18.2 Permitted Uses: Add the following uses to the list of uses allowed by Special Permit:

22. All uses allowed by right in the underlying zoning districts are allowed.

Add Section 18.7 Waivers:

Where it can be demonstrated to the Planning Board, as the Special Permit Granting Authority, that the following waivers are consistent with one or more of the purposes of this District, as defined in Section 18.0, the Planning Board may grant those waivers:

- a. Waivers of limited dimensional, design, or other criteria set forth in Sections 18.3 through 18.6 of the Downtown Overlay District;
- b. Waivers of other limited dimensional, design, density, or other criteria under the Zoning Bylaw.

Add Section 18.8 Underlying Zoning:

The Downtown Overlay District is an overlay district superimposed on all underlying zoning districts. As required by the Enabling Laws, the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those sites undergoing development pursuant to Section 18. To the extent that there is a conflict between the provisions of the underlying zoning and the provisions of the Downtown Overlay District, the provision of Article 18 shall govern, unless waived by the Planning Board, in accordance with Section 18.7.

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Planning Board

Planning Board Recommendation:

Favorable Action (with amendment provisions below)

Vote Required: Two-third (2/3) Vote

J. Simons: Reviewed the proposed amendment recommendations and the reasoning for them. Stated he believed a separate 'mill district' bylaw will need to be created in order to separate this district from the Downtown Overlay District. These modifications will allow some flexibility for the short-term.

Seth Zeren: Provided an explanation for why these amendments are needed.

L. Rudnicki: Recommended that an expiration date be added for the waivers in Section 18.7 to ensure that a new bylaw section is created for this general area.

Article XX. Amend Section 18 Downtown Overlay District. To see if the town will vote to amend the following sections of the Downtown Overlay District:

18.1 Location and Applicability

The second paragraph of Section 18.1 shall be amended by adding the phrase: "...and shall be reviewed by the Planning Board, as Special Permit Granting Authority, or otherwise." At the end of the first sentence, so that the revised sentence shall read as follows:

"An application for the Downtown Overlay District shall be in accordance with the standards set forth in this section and shall be reviewed by the Planning Board, as Special Permit Granting Authority, or otherwise."

Section 18.2 Permitted Uses

Add the following to the list of uses allowed by right after Paragraph 21:

22. All uses allowed in the underlying zoning district are allowed by right.

And add the following uses to the list of uses allowed by Special Permit:

10. All uses allowed in the underlying zoning district by special permit are allowed by special permit issued by the Planning Board.

Add Section 18.7 Waivers:

Where it can be demonstrated to the Planning Board, as the Special Permit Granting Authority, that the following waivers are consistent with one or more of the purposes of this District, as defined in Section 18.0, would enhance or facilitate the planning, design, and/or layout of existing or new structures or uses permitted within the District, and would not

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interfere or negatively impact abutting properties, the Planning Board may grant those waivers:

- a. Waivers of limited dimensional, design, or other criteria set forth in Sections 18.3 through 18.6 of the Downtown Overlay District;
- b. Waivers of other limited dimensional, design, density, or other criteria under the Zoning Bylaw.
- c. Notwithstanding anything to the contrary in the Zoning Bylaw, no waiver shall be granted for building height in excess of the building height existing on the parcel as of the date of the adoption of this amendment, or for floor area ratio in excess of 2.0.

Add Section 18.8 Underlying Zoning:

The Downtown Overlay District is an overlay district superimposed on all underlying zoning districts. Within the Downtown Overlay District, the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those sites undergoing development in accordance with Section 18. To the extent that there is a conflict between the provisions of the underlying zoning and the provisions of the Downtown Overlay District, the provision of Article 18 shall govern, unless waived in accordance with Section 18.7.

EXPLANATION: This Article allows additional uses within the Downtown Overlay District and waivers as permitted by the Planning Board.

DISCUSSIONS

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Planning Board Report –April 15, 2014

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Article 29: Citizen's Petition – Authorization to Acquire Berry Street Property consisting of approximately 26 acres of land and building, including a home built in 1824, an historic cemetery dating back to the mid 1700's, land for conservation and as a location for a critically needed out-country fire station and to fund said acquisition by issuance of Bonds and /or Notes, Appropriations, Grants, including Community Preservation Act funds, and from other sources as may be determined by the Board of Selectmen and in an amount not to exceed two million five hundred thousand dollars (\$2,500,000), without further Town Meeting approval. To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, lease, gift, grant, eminent domain, or otherwise two parcels of land and buildings thereon, if any, of which, as approximately 8.7 acres of land and buildings recorded as being owned as of February 28, 2014 by North Andover Holdings, LLC, and approximately 17 acres of land and buildings recorded as being owned as of February 28, 2014 by Berry Street Trust, u/d/t dated August 7, 1981 recorded with the Essex North Registry of Deeds (the Registry) at Book 1524, page 97, as amended by Trustee's Certification and First Amendment to Berry Street Trust, dated May 9, 2006, and recorded with the Registry at Book 10177, Page 74 and further amended by Trustee's Certificate and Second Amendment, dated December 16, 2009, and recorded with the Registry at Book 11882, Page 180, all of which is described as follows and to fund said acquisition by issuance of Bonds and/or Notes, Appropriations, Grants, including Community Preservation Act funds, and from other sources, as may be determined by the Board of Selectmen and in an amount not to exceed two million five hundred thousand dollars (\$2,500,000), without further Town Meeting approval.

Property Description

The fee simple estate in and to the land in North Andover, Essex County, Commonwealth of Massachusetts, together with the buildings and improvements thereon, on the northeasterly side of Turnpike Street and Northerly side of Berry Street, and being shown as Lots 1-9 inclusive, Parcel A and Parcel B, and Lot 12 on a plan of land entitled "Definitive Subdivision Plan, Framar Way, off Berry Street, North Andover, MA, Date: August 2011, Prepared for: Margaret Fiore, Goldsmith, Prest & Ringwall, Inc., Engineers and Surveyors", which said plan is recorded with the Essex North District Registry of Deeds as Plan No. 16683.

Together containing 25,702 acres, more or less, and all of said boundaries being shown on said Plan No. 16683 hereby attached in two formats.

Excepting therefrom the following, viz.

- 1) Such rights, if any, as the inhabitants of the town may have in and to certain portions of the premises to be used by them as a burial place, said burial lot containing approximately 7,500 square feet, and being shown on said plan;

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- 2) Land along Turnpike Street, also known as Salem Turnpike, released to the Middleton and Danvers Railroad by release dated September 20, 1901, recorded with said Registry at Book 191, Page 220; and
- 3) That portion of the premises taken by the Commonwealth of Massachusetts for highway purpose, along Turnpike Street, said taking being recorded with Registry at Book 689, Page 281, and shown on Plan No. 1638 in said Registry.

For title to the above premises, see deed recorded at Book 1524, Page 103, and at Book 12923, Page 102 in said Registry of Deeds, or to take any other action relative thereto.

Petition of Robert Ercolini, et al

Planning Board Recommendation:

Unfavorable

Vote Required:

MOTION

A motion was made by D. Kellogg to recommend unfavorable action on Article 29. The motion was seconded by R. Rowen. The vote was unanimous, 6-0.

Brooks School: Proposed start of construction of a previously approved soccer field. The scope of the project is reduced to one field as opposed to two.

Chris Huntress, Huntress Associates: In 2009 the Planning Board approved a Watershed Special Permit for the replacement of two existing natural grass fields with synthetic turf fields and sports lights. Those fields were never built. This proposal is to reduce the scope to one synthetic turf field with all work to be completed outside of the Watershed Protection District and outside of the 100' wetland buffer zone. The other field will remain a grass field. Town staff has recommended that an application for a Land Disturbance Permit be filed. We are requesting that the Board allow this application to be approved administratively because it is a reduction in scope and it has been moved outside of the Watershed Protection District. The proposal includes a four pole light system as opposed to the previously approved six pole system. The application has been submitted and it has been sent to L. Eggleston for her peer review. Lisa's first review comments were just received today and we do not foresee any problem satisfying the comments. Provided an overview of the field location, landscaping, elevation, grading and drainage plan, and improvement plan.

J. Simons: Requested that there is specific attention paid to the proposed lighting so as to be good neighbors to abutters.

MOTION

A motion was made by D. Kellogg to delegate any of the responsibilities for the administration of the Land Disturbance Permit bylaw for the Brooks School athletic field application to Curt Bellavance. The motion was seconded by R. Rowen. The vote was unanimous, 6-0.

J. Simons: It should be documented in the records that the reason that we are doing this is because we previously approved something that is much more intensive and obtrusive and that we are having a peer review done as well.

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R. Rowen: This is a minor modification to and a reduction in scope to what was approved in 2009.

Register of Deeds Signature Form: Request for the Board members to sign a signature authorization form to be filed with the Registry of Deeds.

MEETING MINUTES

Approval of April 15, 2014 meeting minutes.

MOTION

A motion was made by L. Rudnicki to approve the April 15, 2014 meeting minutes as presented. The motion was seconded by D. Kellogg. The vote was unanimous, 6-0.

ADJOURNMENT

MOTION

A motion was made by D. Kellogg to adjourn the meeting. The motion was seconded by R. Rowen. The vote was unanimous, 6-0.

The meeting adjourned at 7:45 pm.

MEETING MATERIALS: Agenda, Bond Requests, Hitching Post Road: Letter dated 4/29/14 from Attorney Don F. Borenstein; Public Hearings: 316 Great Pond Road: Draft Notice of Decision dated 5/6/14, email dated 4/16/2014 from L. Eggleston to J. Tymon, Swimming Pool Maintenance Requirements dated 4/24/14, Proposed Site Development Plan 316 Great Pond Road dated 4/15/14, 316 Great Pond Road Plan of Land dated 8/11/86; Annual Town Meeting Zoning Articles: Section 18 Downtown Overlay District with proposed edits, Article XX Amend Section 18 Downtown Overlay District, Planning Board Report dated 4/15/2014; Discussion Items: Brooks School: Land Disturbance Permit Application, Athletic Field Renovations plan set dated 4/4/2014, two multipurpose field photos dated Spring 2014 prepared by Huntress Sports; Registry of Deeds signature authorization letter; Draft meeting minutes 04/15/14.